

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN C. LONG, O/B/O
EDWARD JAMES LONG,

Plaintiff,

CIVIL ACTION NO. 10-10979

v.

DISTRICT JUDGE PAUL D. BORMAN

MAGISTRATE JUDGE MONA K. MAJZOUN

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

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MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

RECOMMENDATION: Plaintiff's Application for Attorney Fees under the Equal Access to Justice Act (EAJA) should be GRANTED.

* * *

REPORT:

A. Procedural History

Plaintiff is a minor child. His father, Steven Long, filed an application for Social Security Supplemental Security Income (SSI) childhood disability benefits on his behalf. Benefits were denied by the Social Security Administration. A requested de novo hearing was held on before Administrative Law Judge Philip Moulaison. In a decision dated January 23, 2009, Judge Moulaison determined that the claimant was not entitled to childhood SSI benefits because his disability had not been established in accordance with the provisions of 42 U.S.C. 423(d). The Appeals

Council declined to review that decision, and Plaintiff commenced the instant action for judicial review of the denial of benefits.

In an Opinion and Order, dated February 7, 2011, this Court remanded the matter to the Commissioner for further administrative action. On March 1, 2011, Plaintiff filed an Application for Attorney Fees under the Equal Access to Justice Act (EAJA). The defendant did not file a response to the petition even though ample time was given to do so. The fee application was referred to the undersigned magistrate judge, on March 2, 2011, for a report and recommendation.

B. Analysis

The EAJA provides that the Court shall award attorney fees and expenses to a prevailing party (other than the United States) in any civil action brought against the United States, unless the position of the government was substantially justified. 28 U.S.C. §2412(d)(1)(A). The Act also provides that the attorney fees awarded shall not be at a rate more than \$125.00 per hour, unless the Court determines that an increase in the cost of living, or some other special factor, justifies a higher fee. 28 U.S.C. §2412(1)(D)(2)(A).

Plaintiff seeks attorney fees at the rate of \$145.00 per hour plus reimbursement of the filing fee. The attorney submitted a detailed breakdown of his work on behalf of Plaintiff showing that he had worked a total of 10.25 hours preparing the disability case between February 5, 2010, and October 1, 2010. Plaintiff

seeks attorney fees under the EAJA in the amount of \$ 1846.25. The petition for attorney fees remains unopposed since the government chose not to file a response. Finding that the attorney fee request is reasonable, the Court recommends that Plaintiff's Attorney Fee Request Under the EAJA be granted.

NOTICE TO PARTIES REGARDING OBJECTIONS:

The parties to this action may object to and seek review of this Report and Recommendation, but are required to act within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1). Failure to file specific objections constitutes a waiver of any further right of appeal. United States v. Walters, 638 F.2d 947 (6th Cir. 1981), Thomas v. Arn, 474 U.S. 140 (1985), Howard v. Secretary of HHS, 932 F.2d 505 (6th Cir. 1991). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this Report and Recommendation. Smith v. Detroit Fed'n of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987), Willis v. Secretary of HHS, 931 F.2d 390, 401 (6th Cir. 1991). Pursuant to Rule 72.1 (d)(2) of the Local Rules of the United States District Court for the Eastern District of Michigan, a copy of any objections is to be served upon this Magistrate Judge.

Within fourteen (14) days of service of any objecting party's timely filed objections, the opposing party may file a

response. The response shall address specifically, and in the same order raised, each issue contained within the objections.

Dated: August 16, 2011 s/ Mona K. Majzoub
MONA K. MAJZOUN
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Report and Recommendation was served upon Counsel of Record on this date.

Dated: August 16, 2011 s/ Lisa C. Bartlett
Case Manager